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Lt. Governor

New Jersey Office of the Attorney General

Division of Consumer Affairs
State Board of Veterinary Medical Examiners
124 Halsey Street, 6th Floor, Newark, NJ 07102

RECEIVED and FILED by the

NEW JERSEY STATE BOARD OF

VETERINARY MEDICAL EXAMINERS

June 6, 2010 this date of: 6/24/11



PAULA T. DOW
Attorney General

THOMAS R. CALCAGNI
Acting Director

BY CERTIFIED AND REGULAR MAIL

Benito G. Garson, D.V.M.
Carlstadt Animal Clinic
413 Hackensack Street
Carlstadt, New Jersey 07072-1302

Mailing Address:

P.O. Box 45020
Newark, NJ 07101
(973) 504-6500

Re: **I/M/O BENITO G. GARSON, D.V.M.**

Complaint Number: 76363

Offer of Settlement In Lieu of Disciplinary Proceeding

Dear Dr. Garson:

This letter is to advise you that the New Jersey State Board of Veterinary Medical Examiners (hereinafter referred to as the "Board") has had an opportunity to review a complaint it received concerning the professional services you rendered to "Roxy" Mazzaro, a five (5) year old Pitbull, at the Carlstadt Animal Clinic ("Clinic"), in February of 2011.

Specifically, the information reviewed by the Board included, but is not limited to, the following documents

1. A complaint filed by Melissa Mazzaro with the Board on or about March 5, 2011, as well as any and all attachments and exhibits;
2. A correspondence from Benito G. Garson, D.V.M., as well as any and all attachments and exhibits; and
3. Medical records of "Roxy" Mazzaro.

Upon review of all available information, the Board has found that probable cause exists to support a finding that you violated, as well as failed to comply with, the statutes governing the practice of veterinary medicine and the accompanying regulations, in violation of N.J.S.A. 45:1-21(h), in that you failed to maintain adequate medical records contrary to N.J.A.C. 13:44-4.9(a).

The Board's review into this matter revealed that Roxy was presented to you at the Clinic on Thursday, February 3, 2011 with complaints of a severe skin rash. Following your physical examination, you administered an injection of steroids and prescribed additional medication. You further scraped the dog's skin to test for parasites. Finally, you administered overdue routine vaccinations. On Monday, February 7th, the owner called the Clinic to report that Roxy was vomiting, had diarrhea and was listless. The owner asserts that she was told to stop all medications and see if the dog improved. In a letter to the Board, dated April 11, 2011, you acknowledge that the owner was told to stop the medications but indicate that she was further advised to bring Roxy to the Clinic or an emergency hospital if she did not improve or if the condition worsened. The owner advised later that evening that Roxy had died on the way to an emergency hospital.

The Board, following its review of the submitted documents, has concluded that there is insufficient evidence to initiate any formal disciplinary action against you relative to the veterinary care rendered to Roxy. However, the Board, in its review of the matter, had the opportunity to review the patient records you submitted for review. The Board has concluded that you violated its patient record regulation by failing to create and maintain medical records for Roxy, contrary to N.J.S.A. 45:1-21(h) and N.J.A.C. 13:44-4.9(a).

Specifically, the Board found that your records failed to contain important and required information relative to the veterinary services provided to Roxy as required by N.J.A.C. 13:44-4.9(a). The Board concluded that the records did not contain the following required information: 1) The name, initials or other identifying information to indicate the identity of the licensee or agent making the entry in the patient record and the date on which the entry is made; 2) A history of the presenting problem; 3) All pertinent symptoms and signs observed; 4) Conclusions and/or diagnosis; and 5) The treatment or treatment plan prescribed, including a specific notation of any medications or modalities prescribed. The Board has concluded that your failure to include the above requisite information in your patient record constitutes a violation of N.J.A.C. 13:44-4.9(a) 2, 5, 6, 8, and 9.

At this juncture, the Board has determined that the above violation is sufficient to warrant the initiation of formal disciplinary proceedings against you. Notwithstanding that determination, however, the Board has determined that it will first offer you an opportunity to settle this matter, and thereby avoid the initiation of disciplinary proceedings, should you consent to:

1. Cease and desist from violating the mandates of N.J.S.A. 45:1-21(h), specifically N.J.A.C. 13:44-4.9(a), by maintaining records for your patients that accurately reflect the treatment or services you rendered;
2. Pay a civil penalty in the aggregate amount of **\$1,000.00**, to be paid immediately upon your signing of the acknowledgment at the bottom of this letter, for your violation of N.J.S.A. 45:1-21(h) and the record keeping regulation, N.J.A.C. 13:44-4.9(a).

If you are willing to settle this matter on the offered settlement terms, you may do so by signing the acknowledgment at the bottom of this letter, and returning it to the Board office. In such event, this letter will be a matter of public record.

In the event you are unwilling to settle this matter on the offered terms, it will be referred to the Attorney General's office for the initiation of appropriate disciplinary action. In such event, you will be afforded an opportunity to defend against the alleged violations. If an evidentiary hearing is deemed warranted, the Board will either conduct that hearing at a date and time to be scheduled or refer the matter to the Office of Administrative Law. You are advised, however, that in the event formal charges are filed, the Board may assess civil penalties in an amount greater than that herein offered in settlement should any charges against you be sustained. Additionally, the Board may, if the facts are found to so warrant, enter an order requiring you to reimburse certain monies and/or requiring you to pay costs incurred by the Board. Should you have any questions concerning this letter or the settlement offer herein, I suggest that you contact Deputy Attorney General Olga E. Bradford, who may be reached at (973) 648-3696.

If you elect to settle this matter presently, you should sign the acknowledgment at the bottom of this letter and return it to the Board within fifteen (15) days following your receipt of this letter. In the event that the Board receives no response from you within fifteen (15) days, the Board's settlement offer will be withdrawn, and the matter will be referred to the Attorney General's Office for the initiation of the appropriate disciplinary action.

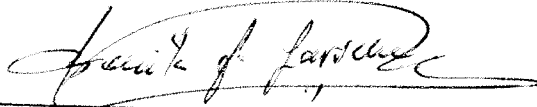
NEW JERSEY STATE BOARD OF
VETERINARY MEDICAL EXAMINERS

By:


FRANCINE WIDRICH

Acting Executive Director

ACKNOWLEDGMENT: I, **BENITO G. GARSON, D.V.M.**, hereby acknowledge that I have read and reviewed the settlement proposal set forth in the above letter. I acknowledge the conduct that has been charged. I am aware that, by signing this acknowledgment, I am waiving any rights I may have to defend myself against any charges of wrongdoing at an administrative hearing. I am also aware that the action taken against me by the Board herein is a matter of public record, and that this letter is a public document. I hereby agree to pay a civil penalty in the total amount of **\$1,000.00**. I also agree to adhere to the other provisions enumerated in this settlement letter.



BENITO G. GARSON, D.V.M.

DATED:

June 14/2011

cc: Olga E. Bradford, Deputy Attorney General

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